G. R. S. IX-5]

Previous references. 1890-91 ~~191~~ . (Courts)

File No. 9

Serial Nos. 1—2

Later references.

P 7

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—2

Major ~~Part~~ B for April 1891.

SUBJECT.

trial of British born Subjects.

Released

W D 88—GPB—50,000—24-7-16

File
C.R.
26/6/91

Mem
Notes

Mem - to Dewan's
& riders.

A Criminal case of hurt
brought against one Wilson
a European British subject
was first instituted in the
Court of the Town Magistrate
of Bangalore & referred to
Mr Ricketts for trial as
Justice of the Peace. He was
of opinion that he was not
a Justice of the Peace and
declined to take it up. The
Dy Mayte of Bangalore
then sent the record to this
Office with a request that
the same may be forwarded
through the Resident to the
Magrath for disposal by

(1)

Mr Ricketts

A Justice of the Peace once
appointed continues so,
until the appointment
is cancelled. I think his
view, is wrong.
I think that no Justice
of the Peace - neither
Mr. Ricketts nor CR
Magrath can refuse
to take up the case
if placed before him
judicially. Name the
Case placed formally
before Mr R. Let
him judicially refuse
to take Cognizance &
it if he likes. Then
have it judicially
placed before CR
Magrath this' and Ricks
& he may if he
likes judicially refuse
- he shall get both such
judl. orders cancelled
by moving the H Ct.

On a reference made by me in case
Justice was also of opinion that
Mr Ricketts was not a Justice of the
Peace. I referred the matter to
Government who in their turn
referred it to the Advocate General
for his opinion. The latter
has not yet given it.

Case ; I placed
before CR Magrath
& Mr Ricketts
refused to take
cognizance of it.

Mr Ricketts
before CR
Magrath this
& he may if he
likes judicially refuse

ders

& so he did & this was sent to the Resident & Chief Commissioner by 27/6/91.

2

receipt of the record sent
a D O (of 1st copy)
is enclosed
why the case should not
be tried by Mr Ricketts
I asked Mr R— denii-officially
whether he had any
objection to taking up
the case & he replied to say
that he felt incompetent
to do so. Thereupon it
as an urgent reply was
wanted by the Assistant
Resident, I sent him
a d. o, of which
the enclosed is a
draft.

I have retained
the file here as the
matter has not been

3

may be required for
urgent reference I am
not sure whether the
course I have adopted
~~will~~ meets with your approval

A Lincoln
Lt Gen

(General Serial No. 30)

189

From

To

Dated

Despatched

Received

Enclosures No.

General No.

No.

Courts
File No 2 — 1890

Bangalore
20th April 1891

My dear Sir

Your letter No. 517-20 dated the 16th instant giving cover to a letter from the District Magistrate, Bangalore, to Colonel Magrath forwarding for disposal in his capacity as Justice of the Peace the record in Criminal Case No. 5747 of 1890 on the file of the Town Magistrate's Court.

I do not understand the necessity for this Course. Mr. Ricketts was appointed by name a Justice of the Peace under Foreign Department Notification No. 15, I. J. dated the 21st July 1881, and there is nothing in this Office to show that he has ceased to exercise these powers. If this is right, the Case in question might be taken up by Mr. Ricketts. In this connection please refer to paragraph 3 of this Office (X) letter No. 1567-928-9 dated the 11th May 1889.

1889.

An early reply will oblige

Yours truly

(Sd).

To

T. Ananda Row Esq
Chief Secretary to the Dewan
of Mysore

(X)

Asst. Resident's letter —
No. 1564-228-9 dated 11th May 1889. (Para 3)

I am to observe that two Officers of the Maharajah's Government whose head-quarters are at Bangalore, have been appointed Justices of the Peace for the express purpose of dealing with Offences committed by European British Subjects in His Highness's territories. If the Durbar allows one of these Officers to go on leave and the other to be absent at the same time from his Head-quarters, Col Nagpath cannot be called upon, as of right, to undertake duties which would ordinarily be performed by one of those Officers."

D.O. Draft

Bangalore
22nd April 1891

My dear Sir

Referring to your D.O. of the 20th instant to the address of the Chief Secretary (now on leave at Madras) regarding the trial of the criminal case against a European British Subject, who is accused of having committed the offence of hurt under Section 323 Indian Penal Code, I beg to state that Mr. Ricketts is of opinion that his appointment as Justice of the Peace under Foreign Department Notification No. 159 J J dated the 21st July 1881, subsisted only so long as he belonged to the Uncovenanted (British) Service, as a member of which he was appointed by the said Notification, and that since his retirement from that Service in 1884 he has ceased to be a Justice of the Peace. A fresh appointment since his entry into the Mysore Service, should, he thinks, have been made to enable him to exercise jurisdiction over European British Subjects and such a Notification not having been issued, he entertains

doubts

doubts as to his Competency to exercise such powers.

A similar case having arisen in 1890, Mr. Ricketts referred the question for the opinion of the Madras High Court - but that Court declined to express an opinion, as the case was not judicially before them and left it to Mr. Ricketts to act upon his own judgment. He of course adhered to the view he all along expressed and held he had no jurisdiction.

In the present case also, when it was first referred to him, he expressed the same opinion and returned the record to the District Magistrate of Bangalore. It was in these circumstances and because there was no other Justice of the Peace in Bangalore, that the record of the case was forwarded to you with a request that the same may be transmitted to Colonel Magrath.

Yours Sincerely

Under Secretary

Captain C. H. Ravenshaw
Asstt to the Resident in Mysore